

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OMAR J. GATES,

Petitioner,

Case Number 2:09-CV-13864

Honorable Lawrence P. Zatkoff

v.

BLAINE LAFLER,

Respondent.

**OPINION AND ORDER DENYING
MOTION FOR RECONSIDERATION
and
APPLICATION TO PROCEED *IN FORMA PAUPERIS***

Petitioner has filed a Motion for Reconsideration regarding the Court's denial of a certificate of appealability (Docket #16). On September 28, 2011, the Court denied Petitioner's petition for writ of habeas corpus and denied a certificate of appealability on all issues raised by Petitioner in his petition. After a thorough review of Petitioner's motion for reconsideration and the brief in support of that motion, as well as a review of the file and the Court's September 28, 2011, Opinion and Order, the Court is not persuaded that a certificate of appealability should be granted with respect to any of Petitioner's claims. Accordingly, the Court hereby DENIES Petitioner's Motion for Reconsideration (Docket #16).

Petitioner also has filed an Application to Proceed *In Forma Pauperis* (Docket #17). The standard for issuing a certificate of appealability has a higher threshold than the standard for granting *in forma pauperis* status, which only requires a showing that the appeal is not frivolous. *See Foster v. Ludwick*, 208 F.Supp.2d 750, 764 (E.D. Mich. 2002). For the reasons set forth in the September 28, 2011, Opinion and Order, the Court finds that the issues presented by Petitioner's

appeal are frivolous. *Hence v. Smith*, 49 F.Supp.2d 547, 549 (E.D. Mich. 1999); Fed. R. App. P. 24(a). Accordingly, Petitioner's Application to Proceed *In Forma Pauperis* on appeal (Docket #17) is DENIED.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: November 30, 2011

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on November 30, 2011.

S/Marie E. Verlinde
Case Manager
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